

1 **YU | MOHANDESI LLP**

2 **B. Ben Mohandes**i (SBN 214921)
213.377.5505 | bmohandes@yumlpp.com
3 **Jordan S. Yu** (SBN 227341)
213.377.5502 | jyu@yumlpp.com
4 633 West Fifth Street, Suite 2800
Los Angeles, CA 90071
5 213.377.5501 Facsimile

6 Attorneys for Defendant
7 LVNV Funding, LLC

8 **UNITED STATES DISTRICT COURT**
9
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 LEONDRA FUJIWARA,

Case No.: 3:17-cv-04312-MEJ

12 Plaintiff,

13
DEFENDANT LVNV FUNDING,
LLC'S ANSWER TO COMPLAINT

vs.

14 LVNV FUNDING, LLC; DOES 1-10
15 inclusive,

16 Defendants.

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YU | MOHANDESI LLP
633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

Defendant LVNV Funding, LLC (“Defendant”) hereby answers the Complaint of Plaintiff Leondra Fujiwara (“Plaintiff”), as follows:

I. INTRODUCTION

1. Answering Paragraph 1 of the Complaint, Defendant admits only that Plaintiff purports to allege violations of the Rosenthal Fair Debt Collection Practices Act (“RFDCPA”), Cal. Civ. Code § 1788, *et seq.*, Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.*; and the California Consumer Credit Reporting Agencies Act (“CCRAA”), Cal. Civ. Code § 1785.25(a). Defendant denies violating these statutes. As a further responses, Defendant denies these allegations to the extent they misstate the law.

II. PARTIES

2. Answering Paragraph 2 of the Complaint, Defendant is without knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies them. Further, the allegations consist of legal conclusions to which no response is required.

3. Answering Paragraph 3 of the Complaint, Defendant states that the allegations consist of legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations that it is a debt collector under the RFDCPA or FDCPA or an information furnisher under the CCRAA.

4. Answering Paragraph 4 of the Complaint, Defendant states that the allegations consist of legal conclusions to which no response is required.

5. Answering Paragraph 5 of the Complaint, Defendant states that the allegations consist of legal conclusions to which no response is required.

III. FACTUAL ALLEGATIONS

6. Answering Paragraph 6 of the Complaint, Defendant denies these allegations.

7. Answering Paragraph 7 of the Complaint, Defendant denies these

1 allegations.

2 8. Answering Paragraph 8 of the Complaint, Defendant denies these
3 allegations.

4 9. Answering Paragraph 9 of the Complaint, Defendant denies these
5 allegations.

6 10. Answering Paragraph 10 of the Complaint, Defendant denies these
7 allegations.

8 11. Answering Paragraph 11 of the Complaint, Defendant states that these
9 allegations consist of legal conclusion to which no response is required.

10 12. Answering Paragraph 12 of the Complaint, Defendant denies these
11 allegations.

12 13. Answering Paragraph 13 of the Complaint, Defendant denies these
13 allegations.

14 14. Answering Paragraph 14 of the Complaint, Defendant denies these
15 allegations.

16 15. Answering Paragraph 15 of the Complaint, Defendant denies these
17 allegations.

18 16. Answering Paragraph 16 of the Complaint, Defendant denies these
19 allegations.

20 17. Answering Paragraph 17 of the Complaint, Defendant is without
21 sufficient knowledge or information to form a belief as to the truth of the allegations,
22 and on that basis, denies them.

23 18. Answering Paragraph 18 of the Complaint, Defendant denies these
24 allegations.

25 19. Answering Paragraph 19 of the Complaint, Defendant is without
26 sufficient knowledge or information to form a belief as to the truth of the allegations,
27 and on that basis, denies them.

28 20. Answering Paragraph 20 of the Complaint, Defendant denies these

1 allegations.

2 21. Answering Paragraph 21 of the Complaint, Defendant denies these
3 allegations.

4 22. Answering Paragraph 22 of the Complaint, Defendant denies these
5 allegations.

6 23. Answering Paragraph 23 of the Complaint, Defendant denies these
7 allegations.

8 **COUNT I: VIOLATION OF ROSENTHAL**
9 **FAIR DEBT COLLECTION PRACTICES ACT**

10 24. Answering Paragraph 24 of the Complaint, Defendant incorporates by
11 reference its responses to the previous paragraphs as though fully set forth therein.

12 25. Answering Paragraph 25 of the Complaint, Defendant denies these
13 allegations.

14 26. Answering the PRAYER FOR RELIEF on page 5, lines 16-19 of the
15 Complaint, Defendant denies that Plaintiff is entitled to any relief whatsoever,
16 including without limitation statutory damages, costs, and equitable relief.

17 **COUNT II: VIOLATION OF FAIR DEBT**
18 **COLLECTION PRACTICES ACT**

19 27. Answering Paragraph 26 of the Complaint, Defendant incorporates by
20 reference its responses to the previous paragraphs as though fully set forth therein.

21 28. Answering the PRAYER FOR RELIEF on page 5, lines 26-28 of the
22 Complaint, Defendant denies that Plaintiff is entitled to any relief whatsoever,
23 including without limitation statutory damages, costs, and equitable relief.

24 **COUNT III: VIOLATION OF**
25 **CALIFORNIA CONSUMER CREDIT REPORTING AGENCIES ACT**

26 29. Answering Paragraph 27 of the Complaint, Defendant incorporates by
27 reference its responses to the previous paragraphs as though fully set forth therein.

28 30. Answering Paragraph 28 of the Complaint, Defendant states that the

1 allegations consist of legal conclusions to which no response is required.

2 31. Answering Paragraph 29 of the Complaint, Defendant states that the
3 allegations consist of legal conclusions to which no response is required.

4 32. Answering Paragraph 30 of the Complaint, Defendant states that the
5 allegations consist of legal conclusions to which no response is required.

6 33. Answering Paragraph 31 of the Complaint, Defendant denies these
7 allegations.

8 34. Answering Paragraph 32 of the Complaint, Defendant denies these
9 allegations.

10 35. Answering the PRAYER FOR RELIEF on page 6, lines 25-27 of the
11 Complaint. Defendant denies that Plaintiff is entitled to any relief whatsoever,
12 including without limitation statutory damages, costs, and equitable relief.

13 36. Answering Paragraph 33 of the Complaint, to the extent that Plaintiff
14 demands a trial by jury on all issues so triable, no response is required.

15 **AFFIRMATIVE DEFENSES**

16 **FIRST AFFIRMATIVE DEFENSE**

17 37. Plaintiff fails to state a claim upon which relief can be granted against
18 Defendant.

19 **SECOND AFFIRMATIVE DEFENSE**

20 38. Plaintiff's claims are barred in whole or in part by the applicable statute
21 of limitations.

22 **THIRD AFFIRMATIVE DEFENSE**

23 39. Plaintiff is barred from obtaining the relief sought in the Complaint by
24 the doctrines of estoppel, waiver, unclean hands, laches, or other equitable doctrines.

25 **FOURTH AFFIRMATIVE DEFENSE**

26 40. Plaintiff's claims are barred in whole or in part because Plaintiff has
27 failed to mitigate her alleged damages, if any.

FIFTH AFFIRMATIVE DEFENSE

41. Defendant expressly reserves any defenses that may be available to it under any applicable laws of other jurisdictions, in accordance with applicable choice of law rules.

SIXTH AFFIRMATIVE DEFENSE

42. Plaintiff's claims are barred in whole or in part because Plaintiff consented to, ratified, or acquiesced in all of the alleged acts or omissions alleged.

SEVENTH AFFIRMATIVE DEFENSE

43. Defendant's conduct was privileged or justified.

EIGHTH AFFIRMATIVE DEFENSE

44. Plaintiff has waived any and all claims, rights and demands made in the Complaint.

NINTH AFFIRMATIVE DEFENSE

45. Defendant at all times acted in accordance with the RFDCPA, FDCPA, and CCRAA, including timely conducting a reasonable investigation upon notice of any alleged dispute.

TENTH AFFIRMATIVE DEFENSE

46. Defendant at all times acted in good faith and in accordance with reasonable commercial standards, and complied fully with the RFDCPA, FDCPA, and CCRAA.

ELEVENTH AFFIRMATIVE DEFENSE

47. Plaintiff's claims may be barred because any alleged acts or omissions of Defendant giving rise to Plaintiff's claims, if any, were the result of an innocent mistake and/or bona fide error notwithstanding reasonable procedures implemented by Defendant to avoid any such acts or omissions. Defendant at all times acted in a reasonable manner in connection with the transactions at issue in this action.

TWELFTH AFFIRMATIVE DEFENSE

48. Plaintiff's claims may be barred because the acts or omissions of which

1 Plaintiff complains have been approved or mandated, implicitly or expressly, by
 2 applicable statutes and regulations.

3 **THIRTEENTH AFFIRMATIVE DEFENSE**

4 49. Plaintiff's claims may be barred because Defendant at all times complied
 5 in good faith with all applicable statutes and regulations.

6 **FOURTEENTH AFFIRMATIVE DEFENSE**

7 50. Defendant specifically denies that it acted with any willfulness,
 8 oppression, fraud or malice towards Plaintiff.

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 51. Any harm alleged in the Complaint can be attributed to several causes,
 11 and the damages for this harm, if any, should be apportioned among the various
 12 causes according to the contribution of each cause to the harm sustained.

13 **SIXTEENTH AFFIRMATIVE DEFENSE**

14 52. If Plaintiff suffered or sustained any loss, injury, damage or detriment, it
 15 was directly and proximately caused and contributed to by the breach, conduct, acts,
 16 omissions, activities, carelessness, recklessness, negligence, or intentional misconduct
 17 of others, and not by Defendant.

18 **SEVENTEENTH AFFIRMATIVE DEFENSE**

19 53. If Plaintiff suffered or sustained any loss, injury, damage or detriment, it
 20 was directly and proximately caused and contributed to by the intervening acts of
 21 others, and not by Defendant.

22 **EIGHTEENTH AFFIRMATIVE DEFENSE**

23 54. If Plaintiff prevails against Defendant, Defendant's liability is several and
 24 limited to their own actionable segment of fault, if any.

25 **NINETEENTH AFFIRMATIVE DEFENSE**

26 55. Plaintiff's claims may be barred because Defendant, within 15 days of
 27 either after discovering a violation which is able to be cured, or after the receipt of a
 28 written notice of such violation, made adjustments or corrections necessary to cure the

1 violation with respect to Plaintiff.

2 **TWENTIETH AFFIRMATIVE DEFENSE**

3 56. Defendant is entitled to a set-off against any award to Plaintiff.

4 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

5 57. Plaintiff's claims are barred because she did not suffer an injury-in-fact.

6 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

7 58. Defendant specifically gives notice that it intends to rely upon such other
8 defenses as may become available by law, or pursuant to statute, or during any further
9 discovery proceedings of this case, and hereby reserve the right to amend its Answer
10 and assert such defenses.

11 12 WHEREFORE, Defendant prays for judgment as follows:

13 1. That Plaintiff takes nothing by reason of the Complaint;
14 2. For its costs of suit herein;
15 3. For attorney's fees to the extent available by law or contract; and
16 4. For such other and further relief as this Court may deem just and proper.

17 18 DATED: August 4, 2017

19 YU | MOHANDESI LLP

20 By /s/ Ben Mohandes
21 B. Ben Mohandes
22 Jordan S. Yu
23 Attorneys for Defendant
24 LVNV Funding, LLC

CERTIFICATE OF SERVICE

I certify that on August 4, 2017, a copy of the foregoing was filed and served electronically in the ECF system. Notice of this filing will be sent to the parties of record by operation of the Court's electronic filing system as described below. Parties may access this filing through the Court's system. A copy of the foregoing was also mailed via United States Postal Service to Plaintiff's Counsel:

Todd M. Friedman, Esq.

Adrian R. Bacon, Esq.

Meghan E. George, Esq.

Thomas E. Wheeler, Esq.

Law Offices of Todd M. Friedman, P.C.

21550 Oxnard St., Suite 780

Woodland Hills, CA 91367

DATED: August 4, 2017

YU | MOHANDESI LLP

By /s/ Ben Mohandes
B. Ben Mohandes
Jordan S. Yu
Attorneys for Defendant
LVNV Funding, LLC